IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 451 OF 2005

SHRI LOPINHO XAVIER AND 5 ORS., ...Petitioners

Versus

M/S GOA SHIPYARD LTD.CO.AND 3 ORS., ...Respondents

Mr. Michael A. Fernandes, Advocate for the Petitioners.
Mr. M. S. Bandodkar Advocate For Respondent No. 1.

Coram:- R.M.S. KHANDEPARKAR &
N. A. BRITTO, JJ.

Date:- 9th January, 2006

P.C.:

Heard.

2. The grievance fo the petitioners is that by dismissing the petitioners from service, their request for grant of pardon was not considered. Whereas the other employees similarly situated were granted pardon and were reinstated in service.

3. On the other hand, learned Advocate appearing for the respondent No.1 has stated that the employees who were granted pardon had tendered their apology before trying to justify their illegal acts. Whereas the petitioners tried to tender apology after completion of the inquiry and after trying to justify their actions. He has also placed reliance in the decision of the Apex Court in the case of M/s. Obettee Pvt. Ltd. v. Mohd. Shafiq Khan reported in A.I.R. 2005 S.C. 3510.

4. The law on the point is well settled. The workman tendering apology for doing an illegal act would stand on different footing than the

workman who justifies his action. Since the persons who had tendered apology had done so prior to trying to justify their action in the matter and on that count they were granted pardon and were reinstated would stand on a different footing and in a different class than the petitioners herein who tried to justify their actions and only having failed to justify the same, tried to tender apology only after conclusion of the inquiry. The facts in this regard are not in dispute. Being so and applying the decision of the Apex Court in the case of M/s. Obettee Pvt. Ltd. v. Mohd. Shafiq Khan, there is no case for interference in writ jurisdiction

The Writ Petition is therefore rejected.

R.M.S. KHANDEPARKAR, J.

N. A. BRITTO, J.

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